

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

(1) LAURIE GARLAND, an individual,

Plaintiff,

v.

Case No.: 20-cv-306-JWB

(1) STATE OF OKLAHOMA, *ex rel.*,
OKLAHOMA DEPARTMENT OF
CORRECTIONS,

(2) CHRISTOPHER REDEAGLE,
individually,

(3) SHARON McCOY, individually,

(4) JOE ALLBAUGH, individually,

(5) PENNY LEWIS, individually,

(6) BOARD OF CORRECTIONS,

Defendants.

**DEFENDANTS' OBJECTION AND MOTION
TO AMEND PRETRIAL CONFERENCE ORDER**

Defendants Sharon McCoy and Penny Lewis, by and through Assistant Attorneys General Jeb Joseph and Jessica Wilkes (Defendants), and pursuant to the Rules of Practice of the United States District Court for the District of Kansas Rule 16.2 file this objection and motion to amend the Court's Pretrial Conference Order [Doc. 108]. In support, Defendants would show the court the following:

1. On October 4, 2022, this Court held a pretrial conference via telephone. The Court noted certain changes it would make to the parties' proposed Pretrial Order, including deleting repetitive or meritless claims in Section 4(a) Plaintiff's Claims. In condensing the Plaintiff's claims, the Court also noted that it would condense Defendants McCoy and Lewis's Defenses in Section 4(b) to reflect the changes made to Section 4(a).

2. This Court noted in the pretrial conference that the parties may file an objection and motion to amend the final pretrial order if necessary.

3. In amending the parties' proposed pretrial order, the Court included Plaintiff's claims that Defendants McCoy and Lewis "were aware or should have been aware of high prison sexual misconduct rates at EWCF, and that a close relationship between Redeagle and Plaintiff had developed; but they failed to create and enforce policies, investigate the relationship, take disciplinary action, or take other reasonable steps to protect Plaintiff from sexual assault, abuse, and harassment."

4. However, the Court removed some of Defendant's McCoy and Lewis's defenses to these claims.

5. Therefore, Defendants request that the following defenses be re-included, and be inserted on pages 12–13 of the Amended Pretrial Order under Section 4(b) "COUNT II":

Defendant McCoy initiated a proper and timely investigation in accordance with the information and evidence available to her at the relevant times. Defendants followed and complied with ODOC policy and the PREA at all relevant times. Even if they did not strictly comply with DOC policies, strict adherence by Defendants McCoy and Lewis to the Oklahoma Department of Correction's prison policies would not have prevented Plaintiff's misconduct or any of Plaintiff's alleged harm. Defendant Lewis is not in charge of ensuring compliance with PREA, and is not in charge of disciplining ODOC employees for PREA violations. Defendants are not in charge of creating policies at EWCC. Defendant McCoy took appropriate disciplinary action under the circumstances. Defendants' alleged failure to take disciplinary action did not attribute to any of Plaintiff's alleged harm.

6. Adding these defenses would not prejudice the other parties as the same or similar defenses have been consistently asserted in this litigation and were contained in the Defendants' portions of the proposed pretrial order.

7. Counsel for the other parties have been contacted. Defendant Redeagle does not to this Motion. Plaintiff does object to this Motion.

Therefore, Defendants request the Court amend the Amended Pretrial Order to add back the above-indicated language to Defendants McCoy and Lewis's defenses.

Respectfully submitted,

/s/Jessica Wilkes

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Attorneys for Defendants McCoy and Lewis

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day October 2022, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing. I further that a true and correct copy of the foregoing document was sent via the ECF System all counsel of record who are registered participants:

/s/ Jessica Wilkes

Jessica A. Wilkes